

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7006 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KANTIBHAI S RAWAT

Versus

STATE OF GUJARAT

Appearance:

MR YM THAKKAR for Petitioner

MR DA BAMBHANIA for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 21/09/96

ORAL JUDGEMENT

Rule. The learned counsel appearing on caveat on behalf of the respondents waives service of Rule. At the request of both the sides, the matter is taken up for final disposal.

The grievance of the petitioner is that the respondent No.2 has removed the petitioner from service

by the impugned order dated 27th August, 1996, without affording any opportunity of hearing to the petitioner. The petitioner was appointed in 1980 as a "Pracharak" on a payment of Rs.250/- per month which, according to the respondents, was a honorarium given to the petitioner. According to the petitioner, there was an interim relief granted in Special Civil Application No.5025 of 1986 operating at the time of the impugned order which could not have been passed in face of the interim order of the High Court. The respondent No.2 observed in the impugned order that no charge sheet or departmental inquiry was necessary as the petitioner was working on honorary basis. Even if the petitioner was not a regular employee, the impugned order which clearly casts a stigma on the petitioner to the effect that he had misappropriated public funds could never have been passed without hearing the petitioner. The impugned order is, therefore, violative of principles of natural justice and void. The impugned order is hereby set aside leaving it open to the respondent-authorities to take action in the matter in accordance with law and in the process, give an adequate opportunity of being heard to the petitioner. This will be without prejudice to any interim order which may be protecting the petitioner, as stated on his behalf. Rule is made absolute accordingly with no order as to costs.

...